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SUBJECT: DUESSELDORF COURT CARVES OUT NICHE IN TERRORISM CASE

REF: REFS: A) 05 STATE 222496 B) 06 STATE 000015 C) BERLIN 1681 D) BERLIN 1767

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¶1. (SBU) Summary: The Duesseldorf Higher Regional Court has emerged as one of Germany's major legal institutions for trying high profile terrorism and other sensitive cases (e.g. mafia, espionage). Following the "Caliph of Cologne" and al-Tawhid trials in recent years and an Al-Qaeda insurance fraud case nearing completion, the court will begin hearing the Cologne "train bomber" (from July 31, 2006) case on December 18. Court officials speculate that they will also try those arrested in the September 4 plot by homegrown terrorists against U.S. military installations and other targets in Germany (Refs C and D). NRW authorities have gone to great lengths to establish Duesseldorf as a venue to try very sensitive cases, opening a state-of-the-art high security court building specially designed for terrorist trials in 2004 and appointing Ottmar Breidling, one of Germany's most experienced judges on terrorism, to preside over key trials. This court is likely to play a prominent role in sensitive cases in the future. End Summary.

¶2. (SBU) The Duesseldorf Higher Regional Court has become particularly interesting among German courts for its role in trying highly sensitive cases. In the late 1990s, state leaders with vision invested considerable resources into ensuring that authorities are in a position to handle the most prominent cases. Court officials consider their facility the most modern and sophisticated in Germany, or at least among the top. We recently took a tour of the facility with Court President Anna-Jose Paulsen and spoke with several of her leading colleagues.

From Rags to Riches: Courthouse a State-of-the-Art Facility

¶3. (SBU) Paulsen explained that prior to 2004, terrorist trials in Duesseldorf were held in a bunker-like courtroom located in former Police barracks. Today, they are tried in a special high security courthouse, a gleaming state-of-the-art facility complete with specialized, advanced computer and communications equipment, drop-down projectors, multiple booths for simultaneous language translation, extensive digitized files to enable judges to crosscheck information presented at trials quickly, and a helipad. The total cost for this facility was 35 million, half of which was funded by the state of NRW and

the other half by the Federal government -- a clear sign that this unique facility would not be used only for cases originating in NRW, but also from other parts of the country, she stated.

Indictment to Verdict: The Path of an Accused Terrorist in Germany

14. (SBU) Unlike routine criminal cases in Germany that are investigated, tried and concluded by prosecutors from the state where the crime was committed, the Chief Federal Prosecutor in Karlsruhe plays a special role in terrorism cases. After the conclusion of a terrorism investigation, the Federal Prosecutor decides before which Higher Regional Court a terrorism suspect is to be indicted and tried. For the case to be handled in a given Regional Court, the defendant must have some tie to the state where the court is located. As defendants often are residents of one state, plan the crime with others in a second, commit it in a third, and are apprehended in a fourth state, the Federal Prosecutor can bring charges before a Higher Regional Court in any of the states, provided it has court with a specialized panel of judges able to deal with so-called "crimes against the security of the state" (which includes terrorist crimes). More often than not, Paulsen said, the Federal Prosecutor bases the decision of where to indict on practical considerations, such as caseload and the experience of the court as well as facilities for conducting high security trials. The link between the defendant and the state where the trial takes place can be very broad. For instance, in the ongoing Al-Qaeda trial before the Duesseldorf Higher Regional Court, none of the defendants were residents of NRW at the time of the crime (large-scale insurance fraud to generate money for Al-Qaeda

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activities), nor were they arrested in the state. It sufficed that one of the defendants had studied in NRW for a semester (when the crime may have already been in the planning stages) to bring this case to Duesseldorf.

Duesseldorf Judge: Major Authority in Terrorism Cases

15. (SBU) Of the 130 judges in the NRW Higher Regional Court, five specialize in terrorism cases, led by Ottmar Breidling, who for 15 years has presided over the division dealing with crimes against the security of the state. He began his career with two trials against members of the Kurdish terrorist organization PKK, which made national and international headlines in the 1990s because they involved close collaborators of PKK leader Vcalan. Breidling also tried the Metin Kaplan case (aka "Caliph of Cologne"), who was convicted in November 2000, and two trials against members of the Al-Tawhid terrorist group (led by Abu Musab Al-Zarqawi), which took place in 2002/03 and 2004/05, respectively. In the current Al-Qaeda trial that opened in May 2006, Breidling is expected to pronounce the verdict shortly (in October), before he opens the trial against the "suitcase bomber" on December 18.

16. (SBU) In a recent meeting, Breidling told us he often faces criticism because his cases take a long time to conclude, but observed with pride that, "to date, not a single one of my court's terrorist-related decisions has been overturned by the

Federal Court of Justice -- unlike some that are tried by my colleagues in other courts." His scrupulous attention to legal procedure and detail and successful track record has made a name for him in legal and anti-terrorism circles. Senior officials in several NRW law enforcement agencies have told the CG they consider him one of Germany's top judges for terrorism-related cases.

Comment

¶7. (SBU) With its high tech, secure facilities and Breidling's expertise and reputation, the Duesseldorf Higher Regional Court has carved out an important niche in the terrorism field and is likely to continue to play an important role in high-profile cases in Germany in the future. Based on its track record, a senior Court official may be correct in his prediction that the three suspects apprehended on September 4 for planning an attack on US military facilities and other sites in Germany will be tried in Duesseldorf and that Breidling will again oversee this trial.

¶8. (SBU) With a verdict in the ongoing Al-Qaeda trial expected shortly, attention will soon turn to the "suitcase bomber" trial. Some of our court sources are optimistic that a verdict in that case can be reached early in 2008, but Breidling's reputation and modus operandi suggest that he will not proceed until he has an airtight case. End Comment.

¶9. (SBU) This message was coordinated with Embassy Berlin.
BOYSE